

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ABRAHAM BARKHORDAR, SARAH ZELASKY,  
and ELLA WECHSLER-MATTHAEI, individually  
and on behalf of all others similarly situated,

Plaintiffs,

v.

PRESIDENT AND FELLOWS OF HARVARD  
UNIVERSITY,

Defendant.

No. 1:20-cv-10968-IT

Hon. Indira Talwani

**PLAINTIFFS' FOURTH NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs, by and through their attorneys, and as their Fourth Notice of Supplemental Authority hereby state the following:

In Plaintiffs' Opposition to Defendant's Motion to Dismiss, Plaintiffs noted "[n]umerous courts analyzing similar claims against educational institutions for failure to provide live, in-person instruction and access to campus facilities in the wake of COVID-19 have denied motions to dismiss claims for breach of contract and unjust enrichment." ECF No. 47 at 1–2 (collecting several cases denying motions to dismiss). Since the submission of Plaintiffs' opposition on October 21, 2020, Plaintiffs' First Notice of Supplemental Authority filed on November 5, 2020 (ECF No. 51), Plaintiffs' Second Notice of Supplemental Authority filed on December 16, 2020 (ECF No. 57), and Plaintiffs' Third Notice of Supplemental Authority filed on March 1, 2021 (ECF No. 67), Plaintiffs have identified additional recent, persuasive decisions. Such additional decisions include the following decision considering Massachusetts law, which Plaintiffs submit as additional support for an order denying Defendant's motion to dismiss: *Holmes, et al. v. University of Massachusetts*,

Case No. 2048CV01025-B, 2021, 2021 Mass. Super. LEXIS 11 (Sup. Ct. Mass. Mar. 8, 2021) (Exhibit 1).

Other college and universities' motions to dismiss were also denied pertaining to student plaintiffs' claims in other recent, analogous cases, which Plaintiffs identify by citation without separate attachment. *See, e.g., In re: University of Miami COVID-19 Tuition and Refund Litig.*, Case No. 20-60851-CIV-SINGHAL, 2021 U.S. Dist. LEXIS 42945 (S.D. Fla. Mar. 5, 2021); and *Seslar v. Trustees of Purdue Univ.*, 2021 Ind. Super. LEXIS 77 (Sup. Ct. Ind. Mar. 8, 2021).

Dated: March 22, 2021

Respectfully submitted,

By: /s/ Daniel J. Kurowski

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*Attorneys for Plaintiffs, individually and on behalf  
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**CERTIFICATE OF SERVICE**

I, Daniel J. Kurowski, hereby certify that on March 22, 2021, the foregoing document filed through the Court's CM/ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Daniel J. Kurowski

Daniel J. Kurowski